

3/19/18

3:30 P.M.

Chapter No. 391

18/SS26/R382

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SENATE BILL NO. 2044

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2044

AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO EXPAND THE AUTHORITY OF THE CHIEF JUSTICE TO APPOINT SPECIAL JUDGES TO SERVE IN COUNTY COURTS TO ADDRESS OVERCROWDED COUNTY COURT DOCKETS AND TO CLARIFY THE DISCRETION OF THE CHIEF JUSTICE TO DETERMINE THE TYPE OF CASELOAD TO BE HANDLED BY A SPECIAL JUDGE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 9-1-105, Mississippi Code of 1972, is amended as follows:

9-1-105. (1) Whenever any judicial officer is unwilling or unable to hear a case or unable to hold or attend any of the courts at the time and place required by law by reason of the physical disability or sickness of such judicial officer, by reason of the absence of such judicial officer from the state, by reason of the disqualification of such judicial officer pursuant to the provision of Section 165, Mississippi Constitution of 1890, or any provision of the Code of Judicial Conduct, or for any other reason, the Chief Justice of the Mississippi Supreme Court, with the advice and consent of a majority of the justices of the

Mississippi Supreme Court, may appoint a person as a special judge to hear the case or attend and hold a court.

(2) Upon the request of the Chief Judge of the Court of Appeals * * *, the senior judge of a chancery or circuit court district, the senior judge of a county court, or upon his own motion, the Chief Justice of the Mississippi Supreme Court, with the advice and consent of a majority of the justices of the Mississippi Supreme Court, shall have the authority to appoint a special judge to serve on a temporary basis in a circuit * * *, chancery or county court in the event of an emergency or overcrowded docket. It shall be the duty of any special judge so appointed to assist the court to which he is assigned in the disposition of causes so pending in such court for whatever period of time is designated by the Chief Justice. The Chief Justice, in his discretion, may appoint the special judge to hear particular cases, a particular type of case, or a particular portion of the court's docket.

(3) When a vacancy exists for any of the reasons enumerated in Section 9-1-103, the vacancy has not been filled within seven (7) days by an appointment by the Governor, and there is a pending cause or are pending causes in the court where the vacancy exists that in the interests of justice and in the orderly dispatch of the court's business require the appointment of a special judge, the Chief Justice of the Supreme Court, with the advice and consent of a majority of the justices of the Mississippi Supreme

Court, may appoint a qualified person as a special judge to fill the vacancy until the Governor makes his appointment and such appointee has taken the oath of office.

(4) If the Chief Justice pursuant to this section shall make an appointment within the authority vested in the Governor by reason of Section 165, Mississippi Constitution of 1890, the Governor may at his election appoint a person to so serve. In the event that the Governor makes such an appointment, any appointment made by the Chief Justice pursuant to this section shall be void and of no further force or effect from the date of the Governor's appointment.

(5) When a judicial officer is unwilling or unable to hear a case or unable or unwilling to hold court for a period of time not to exceed two (2) weeks, the trial judge or judges of the affected district or county and other trial judges may agree among themselves regarding the appointment of a person for such case or such limited period of time. The trial judges shall submit a notice to the Chief Justice of the Supreme Court informing him of their appointment. If the Chief Justice does not appoint another person to serve as special judge within seven (7) days after receipt of such notice, the person designated in such order shall be deemed appointed.

(6) A person appointed to serve as a special judge may be any currently sitting or retired chancery, circuit or county court judge, Court of Appeals judge or Supreme Court Justice, or any

other person possessing the qualifications of the judicial office for which the appointment is made; * * * however, * * * a judge or justice who was retired from service at the polls shall not be eligible for appointment as a special judge in the district in which he served prior to his defeat.

(7) Except as otherwise provided in subsection (2) of this section, the need for an appointment pursuant to this section may be certified to the Chief Justice of the Mississippi Supreme Court by any attorney in good standing or other officer of the court.

(8) The order appointing a person as a special judge pursuant to this section shall describe as specifically as possible the duration of the appointment.

(9) A special judge appointed pursuant to this section shall take the oath of office, if necessary, and shall, for the duration of his appointment, enjoy the full power and authority of the office to which he is appointed.

(10) Any currently sitting justice or judge appointed as a special judge under this section shall receive no additional compensation for his or her service as special judge. Any other person appointed as a special judge hereunder shall, for the period of his service, receive compensation from the state for each day's service a sum equal to $\frac{1}{260}$ ths of the current salary in effect for the judicial office; * * * however, * * * no retired chancery, circuit or county court judge, retired Court of Appeals judge or any retired Supreme Court Justice appointed as a special

judge pursuant to this section may, during any fiscal year, receive compensation in excess of fifty percent (50%) of the current salary in effect for a chancery or circuit court judge. Any person appointed as a special judge shall be reimbursed for travel expenses incurred in the performance of the official duties to which he may be appointed hereunder in the same manner as other public officials and employees as provided by Section 25-3-41, Mississippi Code of 1972.

(11) If any person appointed as such special judge is receiving retirement benefits by virtue of the provisions of the Public Employees' Retirement Law of 1952, appearing as Sections 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits shall not be reduced in any sum whatsoever because of such service, nor shall any sum be deducted as contributions toward retirement under said law.

(12) The Supreme Court shall have authority to prescribe rules and regulations reasonably necessary to implement and give effect to the provisions of this section.

(13) Nothing in this section shall abrogate the right of attorneys engaged in a case to agree upon a member of the bar to preside in a case pursuant to Section 165 of the Mississippi Constitution of 1890.

(14) The Supreme Court shall prepare the necessary payroll for special judges appointed pursuant to this section and shall

submit such payroll to the Department of Finance and Administration.

(15) Special judges appointed pursuant to this section shall direct requests for reimbursement for travel expenses authorized pursuant to this section to the Supreme Court and the Supreme Court shall submit such requests to the Department of Finance and Administration. The Supreme Court shall have the power to adopt rules and regulations regarding the administration of travel expenses authorized pursuant to this section.

SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
January 31, 2018



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 7, 2018



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/19/18

3:30pm